

Remarks:

The Examiner rejected claims 1, 6-8 and 10-12 under 35 USC 102(e) as being anticipated by Smith (2003/0088272). Applicant respectfully traverses this rejection.

It is noted that Smith does not show any embodiment in which a suture anchor is compressed by elements of the suture anchor which are urged into compression by virtue of their contact with the wall of a bone hole or tunnel. That is, there is nothing in the Smith reference which says that the Smith anchor ought to be in a bone hole in order to crimp suture. In fact, the Smith device only partially compresses suture such that the suture is movable only in one direction relative to the suture anchor whether or not the suture anchor is in a bone hole. On the contrary, the current invention comprises, for example, a proximal end 22 which shows two portions 26, 28 (specification paragraphs 0028 and 0029) which are moved by their interaction with the wall of the bone hole and by virtue of this movement suture is crimped so that it is unable to move in any direction. This is contrary to Smith which explicitly says in paragraph 0053 that movement of suture in a particular direction is expected by virtue of the design of the suture anchor which permits movement in one direction but not in the other.

Furthermore, it is emphasized that in the current invention the anchoring member (i.e. the distal portion of the anchor) has a maximum transverse dimension smaller than the maximum transverse dimension of the proximal body portion in the open position. This is contrary to the Smith device which clearly shows both proximal and distal ends of the suture anchor having the same diameter (as shown in Figures 1 and 2), even after insertion of the anchor into a bone hole.

It is further noted that the claimed invention requires the suture to be transversely oriented relative to the longitudinal axis of the suture anchor. None of the embodiments of Smith show any structure capable of receiving transversely oriented suture between two opposed gripping

portions. In the Smith device, for example in Figures 2A through 2E, the only portions which could possibly be deemed equivalent to the claimed gripping portions are cleats 40 and 50 which can only receive suture extending parallel to the longitudinal axis of the anchor and not transverse. While Figures 4A-6 of the Smith reference do show an embodiment in which suture extends transversely relative to the longitudinal axis of the anchor, such embodiment does not permit any suture extending through the transverse aperture to be in a two way free sliding state. This embodiment of Smith only permits the suture to slide within the aperture in one direction while movement in the other direction is prevented by virtue of the design of the Smith transverse aperture.

The Examiner also rejected claims 15, 19 and 21 under 35 USC 102(b) as being anticipated by Schwartz et al. (6,293,961). The Examiner also rejected claim 9 under 35 USC 103(a) as being unpatentable over Smith (2003/0088272) in view of Schwartz et al. (6,293,961). Applicant respectfully traverses this rejection.

Applicant respectfully submits that the claims as amended overcome the Examiner's rejection. Furthermore, it is noted that all of the embodiments of the Schwartz reference require an aperture with suture extending longitudinally rather than transversely.

Applicant believes that the claims remaining in this case are in condition for allowance and respectfully requests that a timely Notice of Allowance be issued in this case. Examiner is encouraged to contact Applicant by telephone with any questions about the content of this amendment or to discuss allowable subject matter to facilitate placing this case in condition for allowance.